

# DOWNLOAD PDF REPRESENTATIONAL FAIRNESS IN WTO RULE MAKING

## Chapter 1 : WTO | Understanding the WTO - The Doha agenda

*This book examines representational fairness in WTO rule-making. The context of examination is the pharmaceutical-related provisions of the TRIPS Agreement and the interests of developing countries and pharmaceutical multinational enterprises therein.*

The duty of fair representation is the legal duty of a union to equally, and in good faith, represent every employee in a bargaining unit, regardless of whether the employee is a union member or not. This legal duty arises out of the exclusive representative status unions hold under the National Labor Relations Act in the private sector and under state collective bargaining laws in the public sector. The duty requires three things on the part of the union: If basic UE principles in grievance handling are followed there should not be a problem with a "failure to represent" charge. Ralph thinks he has a problem and goes to his steward. I want to file a grievance. What Should a Steward Do? In UE we know that a big part of our job as a steward is to protect the gains we have won in our contracts, to fight to improve our wages, hours and working conditions, and to defend workers against injustice from management. We also know that sometimes we have to defend workers that we or others may not personally like, because we must defend a principle bigger than the individual person. Throughout the years a legal principle has been developed by the National Labor Relations Board called "the duty of fair representation" DFR. This legal principle quite simply states that a union must represent all workers equally and without prejudice. If a union fails to represent a worker due to prejudice, or hostility, the union can be charged. The idea of failure to represent includes failing to properly investigate a grievance, process a grievance, or in some cases, even to arbitrate a grievance. The duty to represent all workers is especially true in the case where a non-member or anti-union worker files a grievance. The key factor in a "failure to represent" case is that the union knowingly commits these acts because of prejudice or hostility towards an individual. If an honest mistake is made, that is not considered to be "failure to represent. A union loses a case because they missed the time table for advancing the grievance to the next step. The grievant files a complaint that the union violated the duty of fair representation because they missed the time limit. In this case, normally the union would not be found guilty of a DFR unless it could be proven that the union missed the time limit because they were prejudiced or hostile against the grievant for some reason. What Should be Done Here are some basic guidelines: Keep all notes of the investigation. Discuss the grievance with the grievance committee or chief steward. Make a collective decision on processing the grievance to the next step. Keep the worker or workers involved in the grievance fully informed about what is happening to their grievance. If you must make a compromise settlement, make sure the reason for that decision is explained and fully understood. Never allow prejudicial statements to be made about the grievant in a discussion on whether to file their grievance. If there is a debate at a union meeting over whether or not to take a grievance to arbitration, make sure the grievance is debated solely on its merits. If one of the officers is personally involved, he or she should excuse themselves from the vote. The person chairing the union meeting must rule any derogatory discussion of the individual out of order. The minutes of the meeting should clearly note that such discussion was ruled out of order. If the members vote not to take a case to arbitration because the person who filed the grievance is anti-union, the union can be charged and will most likely lose. Make sure the worker is told why this is happening. If necessary, have several stewards explain the reasoning behind the decision. A steward does not have to pound the table over a grievance that is questionable or non-existent. Sometimes a worker has suffered an injustice that we cannot win by pointing out a specific contract violation. Make sure the individual understands that you agree an injustice has occurred but it cannot be won as a contract violation issue. There is no obligation to process a "non grievance" all the way to the final step of the grievance procedure. If the committee decides not to process a grievance make sure the investigation is complete and the facts are in order. There is no obligation to take every case to arbitration or even conduct a vote on every grievance. As long as the issue has been debated and dealt with on its merits, there should be no

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problem. The incident must be investigated and, if necessary, action must be taken. If the harassment is coming from another worker the union must approach it just as seriously as if the harassment was coming from a member of management. Joan goes and talks to some of the other stewards. None of them think Ralph has a good case although there are some factors complicating the situation. One of them points out that the reason that the company demanded in the last negotiations that employees had to work the day before and the day after a holiday was because of a few people like Ralph, who always took extra days off. Joan decides to investigate more on the possible harassment of Ralph. She is going to let Ralph present his case in the first step of the grievance procedure. They will also tell Ralph that the way to deal with harassment is through the grievance procedure.

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## Chapter 2 : International law books and independent legal publications | BIICL

*Representational fairness in WTO rule-making: negotiating, implementing, and disputing the TRIPS pharmaceutical-related provisions.*

The scope of the WTO is greater, however, including services, agriculture, and intellectual property, not just trade in goods. The main principles of the WTO boil down to the following: Non discrimination National treatment implies both foreign and national companies are treated the same, and it is unfair to favor domestic companies over foreign ones. Some countries have a most favored nation treatment, but under WTO the policy is that all nations should be treated equally in terms of trade. Any trade concessions etc offered to a nation must be offered to others. Reciprocity Nations try to provide similar concessions for each other. Transparency Negotiations and process must be fair and open with rules equal for all. Special and differential treatment A recognition that developing countries may require positive discrimination Back to top Reality different from the principles As principles, many of these sound good. However, in reality, power politics has meant that the WTO has received criticized by various groups and third world countries for numerous things, including: Being very opaque and not allowing enough public participation, while being very welcoming to large corporations. Take the following as a very small set of examples: Countries cannot say no to genetically engineered food or milk that contains genetically engineered growth hormones known to cause health problems or trees that have been felled from pristine forests and so on. The affected corporations managed to take this to GATT the predecessor to the WTO and get a reversal of the law amidst the threat of sanctions. Lori Wallach, Director of Global Trade Watch , provides further examples in a video clip 6 minutes, transcript also noting that various global trade agreements have been pushed in such a way that they often undermine local laws and constitutions. If for example, health or environmental protections get in the way of the trade agreement, then they often have to be revoked or changed in favor of trade agreements: A number of countries have also spoken out against the WTO saying that there needs to be more co-operation between the North and South a general term to refer to the Rich and Developing countries, respectively with regards to international trade. During the week of May 20, , celebrations marked 50 years of multilateral trade. However, as the following link mentions, the African nations did not feel that there was much to rejoice at and said that it was a party where only the rich nations has something to celebrate. Most people in the world have not benefited from the current form of multilateral trading systems. There have been so many examples, it is impossible to list here. For poor nations it makes developing their own industries independently more costly, if at all possible. Furthermore, as shown in the genetically engineered food section, indigenous knowledge that has been around for hundreds, if not thousands of years in some developing countries have been patented by large companies, without consent or prior knowledge from indigenous communities. People then find that they have to buy back that which they had already known and used freely. As summarized from various articles from the Third World Network on pharmaceuticals, patents and profits , TRIPS has a number of problems including the following: TRIPS aims to prevent imitation of products which is ironic, given that this would allow further competition and better prices for drugs and other products, which is something that transnational corporations have often sung as being the benefits of free trade and corporate-led capitalism with minimal restrictions. The effect of the 20 year period of a patent protection is to basically deny others such as developing countries and their corporations from developing alternatives that would be cheaper. Technology transfer is prevented again, a direct contradiction to those who support the WTO, free trade in its current forms etc. Transnational corporations will be able to continue to grow more due to their profits from this, while others will decline further. Instead, commercial interests are promoted. Notice that impedes growth, and development and is intended to. Smith of the Institute for Economic Democracy describes, this is partly how inequality is subtly structured into law. These types of agreements strengthen subtle monopoly rights. Oxfam also make important distinctions between reality and rhetoric and point out that TRIPS will Exacerbate the technological divide:

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There is already a wide technological gap between rich and poor countries. Although developing countries are rich in informal knowledge, they are net importers of the kinds of high-tech goods and know-how protected by TRIPS. TRIPS will exacerbate this divide by increasing the cost of knowledge-rich goods imported by developing countries. Royalties and licence fees paid by developing countries to patent holders in the industrialised world have been climbing rapidly since the mids. Less than 10 percent of global spending on health research addresses 90 percent of the global disease burden. Similarly, much agricultural research aims to improve the appearance and taste of produce for consumers in rich markets, rather than to support the sustainable farming of staple foods such as sorghum and cassava, on which many poor farmers depend. Intellectual Property and the Knowledge Gap , Oxfam Policy Paper, December While this is a large topic itself, to start with, you can start at the following sections of this site that discuss some of the problems in the context of specific issues:

**Chapter 3 : Representational Fairness in WTO Rule-making**

*Representational Fairness In Wto Rule Making Negotiating Implementing And Disputing The Trips Pharmaceutical Related Provisions, its contents of the package, names of things and what they do, setup, and operation.*

The high-profile case pitted photographic paper and film giants Kodak and Fuji against one another along with their respective governments, the US and Japan. Issues of fairness in trade abound in the Kodak-Fuji case. Both sides think that their actions are perfectly fair and thus, by extension, that the other party is somehow acting unfair. By examining the issues on both sides of this debate in a positive manner we can perhaps tease out the underlying manifestations which cause both sides to use terms of equity, justice and fairness in explaining their behavior. This allegation has some historical fact. After WWII the Japanese economy was largely closed to, and protected from, US exporters as the security considerations of the time encouraged a strong and stable Japanese domestic economy. A central element of this policy was allowing full Japanese access to US export markets. Many US firms found it difficult to get a foothold in this Keiretsu dominated market and have since cried to the US government for help in prying open the door. Discrimination of this type is indeed deemed unfair by international treaties. WTO rules provide for a National Treatment Clause which obligate countries to treat foreign firms the same as domestic firms. Proponents of this view would argue that while Japanese firms face relatively few impediments in the US market, American firms face a startling number in the Japanese domestic market. Thus this argument is seen to be one in which American firms are discriminated against by Japanese suppliers, distributors, and retail centers on the very fact that they are American. Furthermore, the US allowed the Japanese access to its vast market to export and gain valuable dollars--again to the hindrance of domestic producers. Since many Americans lost jobs to Japanese industries that America helped rebuild, such as steel, some would argue that Japan owes the US, at the very least, access to its markets in return. Japan is thus viewed as abusing a historical mutually beneficial positive reciprocity relationship by discriminating against US firms and setting up barriers to market access. Conversely, the Japanese position also reflects an over-riding concern about US trade practices in general. World-wide economic competition has produced a negative reaction against unilateral US trade policies. One EU diplomat recently claimed that, "American readiness to impose unilateral sanctions makes the US prosecutor, judge, and jury on any action they deem unfair. Thus, what the world deems fair, the US might not, and may proceed to take action even though this is against WTO rules that the US helped create. Breaking the rules of the game, especially rules which one authored, is at the heart of Japanese concern over the inequity of Section 301. Rather, they would couch their feelings in terms of loyalty to Japanese firms which provide the country with jobs and international prestige. Just as Americans believe that buying a Chevy is good for their economy, so too do the Japanese practice this consumerist form of loyalty. The Japan-Fuji side has largely defended its position by using a Distributional Fairness argument. Kodak thus feels that its poor performance in Japan is entirely inconsistent with its performance elsewhere and that reasons beyond market conditions--Japanese government exclusionary practices--are to blame. Distributional arguments such as these that are supported with hard numbers represent a valuable tool in influencing opinions of fairness. Both sides employ end results and statistics to add merit to their claims of equity or inequity. Market share is the measure being used in both cases to define fairness. Kodak believes that an inequity exists because it has less market share in Japan than elsewhere in the world. Fuji believes that a similar distribution of market share or lack of it in the Polaroid case between the firms in their respective nations proves fair business practices beyond the shadow of a doubt. Fuji wonders how Kodak could claim inequity when another American firm, Polaroid, not only competes in, but dominates, an entire sector of the Japanese photography industry. Thus, the final outcome, in this case market share, is central to a positive analysis of fairness couched in a distributional light and leads each side to believe in the validity of their stance. Given an unfair trading practice, Americans are willing to respond in kind. American lawmakers might continue the Kodak-Fuji battle by imposing unilateral sanctions on Japan.

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Obviously, any such renewed action would once again be viewed from the outside world as unfair under the Golden Rule. Section action for Kodak would give the Japanese ammunition to claim this was just one more instance of arbitrary, unilateral US trade policy. Since the WTO has already ruled on the case, Section action would be viewed as a blatant pursuit of US interests in the face of world opinion. Proponents of such a stance would argue that the US is acting unfairly by disregarding the rules of the game which were decided by a multinational body. Conclusions The debate between Kodak and Fuji illustrate the inherent problems in assessing issues of fairness. Admittedly, I leave this argument with no real consensus as to which side is correct. It seem in the first instance that Kodak has a point, but the Polaroid factor leaves one with a different view. Furthermore, it seems that Distributional Fairness exists on each side since both firms maintain similar market shares in each others domestic markets. In the end, however, one can see how fairness is played by both sides with some validity. No wonder definitions of fairness are in such short supply! Ultimately, it seems that the only concrete principle found in fairness in trade is that fairness is dependant on where one is standing.

**Chapter 4 : Declaration of the Hong Kong session of the Parliamentary Conference on the WTO**

*This book examines representational fairness in WTO rule making. The context of examination is the pharmaceutical-related provisions of the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement and the interests of developing countries and pharmaceutical multinational enterprises therein.*

The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development. We are aware that the challenges members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September. We reaffirm the right of members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services. We reaffirm our

declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We note with particular satisfaction that this conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new members, since our last session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all members. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system. We attach the utmost importance to the implementation-related issues and concerns raised by members and are determined to find appropriate solutions to them. In this regard, we shall proceed as follows: We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights TRIPS Agreement in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate declaration. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on

the clarification of: Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on: The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to: Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable

economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to members and observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

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## Chapter 5 : Fairness In The WTO Trading System - Oxford Handbooks

*representational fairness in wto rule making negotiating implementing and disputing the trips pharmaceutical related provisions, biofuels bioenergy and bioproducts from sustainable agricultural and forest crops proceedings.*

Additional Information In lieu of an abstract, here is a brief excerpt of the content: As we know, the WTO faces many challenges. Some commentators believe it faces a legitimacy crisis. In particular, the rapid rise in the economic and political power of some large developing economies, such as China, India, and Brazil, is having a major impact on the functioning of the WTO. The lack of progress in the Doha Round of multilateral trade negotiations is a sign that all is not well with the decision-making and rule-making machinery of the WTO. The proliferation of regional trade agreements, partly in response to the impasse in the multilateral negotiations, is also diverting precious government resources and attention from the WTO to regional negotiations. A major dilemma, as the Warwick Commission has noted, is that while public support for trade liberalization and trade agreements is waning significantly in developed countries, the developing world is becoming more convinced of the benefits of trade agreements for their domestic economies. Their proposals were carefully chosen to ensure that they were capable of being implemented without new rules or agreements having to be negotiated. Despite the relevant and pragmatic conclusions of these two reports, the Members of the WTO have to date shown no appetite for institutional reform of the Organization. This chapter focuses on issues related to the internal management of the WTO and provides preliminary proposals for reform of the WTO. The efficiency of an organization and its achievements depend, to a certain extent, on the internal management of the organization. Relevant considerations include whether the bodies of the organization possess enough authority to take the necessary actions and decisions; whether these bodies are equipped to react promptly and appropriately to changing situations; whether there are specific procedures that provide clearly defined processes for rule-making proposals to be considered and approved; and whether the rule-making procedures work in practice, allowing the organization to respond to current realities and power relationships. All these questions are relevant for the evaluation of the internal management of the WTO. Where one stands on this question depends on what one believes is the mandate of the WTO. Several experts see the mandate of the WTO as fundamentally focused on trade liberalization. In their view, it does not need major institutional reform. It simply needs to get on with the business of negotiating new trade rules. Most Members of the WTO take this view. Other experts believe that the WTO should have a broader mandate in the future as the organization responsible for international economic regulation in the global economy. While there are no formal decision-making structures in the WTO, the time-honoured practice of consensus decisionmaking has worked effectively in the past You are not currently authenticated. View freely available titles:

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## Chapter 6 : WTO | Doha 4th Ministerial - Ministerial declaration

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The highest decision-making body of the WTO, the Ministerial Conference, usually meets every two years. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements. Some meetings, such as the inaugural ministerial conference in Singapore and the Cancun conference in [37] involved arguments between developed and developing economies referred to as the "Singapore issues" such as agricultural subsidies; while others such as the Seattle conference in provoked large demonstrations. The decision was taken by consensus at the General Council meeting on 26 July and marks the first time a Ministerial Conference is to be organized in Central Asia. As a result, there have been an increasing number of bilateral free trade agreements between governments. It oversees the implementation, administration and operation of the covered agreements. The WTO shall provide the forum for negotiations among its members concerning their multilateral trade relations in matters dealt with under the Agreement in the Annexes to this Agreement. As the trade volume increases, issues such as protectionism, trade barriers, subsidies, violation of intellectual property arise due to the differences in the trading rules of every nation. The World Trade Organization serves as the mediator between the nations when such problems arise. The WTO is also a centre of economic research and analysis: That is, it is concerned with setting the rules of the trade policy games. It has two major components: Both are embedded in the main WTO rules on goods, services, and intellectual property, but their precise scope and nature differ across these areas. It reflects both a desire to limit the scope of free-riding that may arise because of the MFN rule, and a desire to obtain better access to foreign markets. A related point is that for a nation to negotiate, it is necessary that the gain from doing so be greater than the gain available from unilateral liberalization; reciprocal concessions intend to ensure that such gains will materialise. The tariff commitments made by WTO members in a multilateral trade negotiation and on accession are enumerated in a schedule list of concessions. These schedules establish "ceiling bindings": If satisfaction is not obtained, the complaining country may invoke the WTO dispute settlement procedures. The WTO members are required to publish their trade regulations, to maintain institutions allowing for the review of administrative decisions affecting trade, to respond to requests for information by other members, and to notify changes in trade policies to the WTO. These internal transparency requirements are supplemented and facilitated by periodic country-specific reports trade policy reviews through the Trade Policy Review Mechanism TPRM. In specific circumstances, governments are able to restrict trade.

**Chapter 7 : Duty of Fair Representation | UE**

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The Doha Development Agenda is of concern to us all. Open, free, fair and growing trade reduces poverty and brings benefits to developing and developed countries alike. We therefore reiterate our call on heads of State and government, ministers and trade negotiators to show vision and leadership and pledge our full support for the multilateral trading system. We welcome the growing involvement and effective participation of developing countries, through their respective groupings, including the G-4 of cotton-exporting developing countries, as well as the G, G, G and G. We are concerned not least by the insufficient progress made in dealing with all key sectors, especially the major development issues of utmost interest to developing countries and especially the least developed countries, and urge ministers to make substantial progress in Hong Kong in this regard. We urge WTO members to bear in mind that the very lives and livelihoods of literally hundreds of millions of persons depend on the achievement of balanced, fair and equitable results in multilateral negotiations. The attainment of the Millennium Development Goals, whose implementation is already at risk, would be further jeopardized by protracted blockage. We are encouraged that there is still the commitment to complete the negotiations by the end of , and support the calls for subsequent speedy implementation of their results in areas of priority interest to developing countries, as envisaged in the Doha Ministerial Declaration. Development issues are at the heart of the Doha Round. We welcome the agreement reached last week on the right to import drugs for national emergencies. The creation of a "Development Box" for the least developed countries, duty-free and quota-free access for their exports, and the agreement for special and differential treatment for developing countries, including recently-acceded developing countries, should be an integral part of the results at this stage of the negotiations. Without these measures, the Development Agenda agreed to at Doha will be another missed opportunity for spreading the benefits of trade liberalization on an equitable basis. With regard to agriculture, from the standpoint of the contribution to the development of the poorest countries, we must see substantial improvements in market access and the phasing out in parallel by all countries, by the dates agreed by WTO members by the end of , of all forms of agricultural export subsidies. Special treatment should be provided for "sensitive" and "special products" in line with criteria yet to be agreed upon, while the permanent provision of duty-free and quota-free market access for products originating from the least developed countries should be offered. We recognize the need to develop appropriate modalities to address the erosion of longstanding preferences for such products. The issue of geographical indications should be taken into account in the talks on market access for agricultural products. For the Doha Development Round to be a success, we consider it essential to make progress in solving the cotton issue, which is vital for a number of developing countries. We recognize that agriculture is of concern to developed, developing, least developed, exporting and importing countries alike, and is key to the successful conclusion of trade negotiations. Agriculture is not just a sector of economy, but a basis for the very existence of hundreds of millions of people. In view of the heightened sensitivity in this sector as efforts to meet the Uruguay Round "reform" commitments proceed, we draw the attention of WTO members to the fact that producers, exporters and consumers in many developing countries, and especially in Africa, have strong claims for a fair outcome, in particular as regards a variety of important commodities that are of interest to them as exports. For those countries that may face adjustment costs, assistance must be assured. At each step of the ongoing negotiations, the concerns of developing countries in respect of poverty reduction, food security and sustainable livelihoods must be kept at the forefront. The coexistence of diverse agricultural systems of various countries requires the non-trade concerns of agriculture - including food security, land conservation, revitalization of rural society and rural employment, as well as the issues of sustainable forestry, illegal logging and fisheries - to be addressed also in a satisfactory manner. To achieve a balanced outcome of

the Doha Round, substantial progress must take place in non-agricultural market access negotiations. The commitments sought by certain competitive developing countries to reduce high tariff levels on temperate agricultural products should include the reduction of tariff peaks on processed tropical commodities. We are convinced that market access commitments for services, agriculture and non-agricultural products must be balanced and we recognize at the same time the need to develop appropriate modalities to address the erosion of long-standing preferences for such products. We recognize the special situation of recently acceded WTO Members who have undertaken extensive market access commitments at the time of their accession as recognized by paragraph 9 of the Doha Declaration. This situation should therefore be effectively addressed through specific flexibility provisions in the results of the Doha Round of negotiations. We commend the renewed efforts to increase trade among developing countries South-South trade bilaterally, regionally and inter-regionally. Such efforts widen the arc of integration and cooperation of open economies across continents, thus improving general welfare. However, as lasting progress can only be achieved through binding commitments, it is important to ensure that such trade agreements conform to the overall framework of WTO multilateral rules. In the field of trade in services, there is clearly a need for much greater effort on the part of all WTO members. We encourage as much transparency and flexibility as possible, and believe that trade in services can be an important way to transfer knowledge to developing countries. At the same time, the liberalization of public services should be approached with caution, specifically in such areas as those relating to health, education and the basic needs of the population. We note that improved and substantial offers regarding the movement of natural persons "GATS Mode 4" would be of vital importance to developing countries in order to match the demand in improved capital- and technology-intensive sectors and also to promote their own development. In the areas of trade facilitation, there is now apparently a better appreciation of the fact that both developed and developing countries stand to benefit from increased efficiency in trade. Enhanced efforts are therefore necessary to accelerate negotiations in this area, with a view to arriving at concrete and quantifiable programmes. We underscore the vital need for an effective, sensible and prompt application of the commitments regarding Trade-Related Aspects of Intellectual Property Rights TRIPS , including the protection of traditional knowledge, genetic resources and the particularity of agricultural products and call on ministers to pursue work on TRIPS issues, including the relationship between the TRIPS Agreement and the Convention on Biological Diversity. Concrete results should be reached on stronger multilateral rules in the area of anti-dumping, subsidies and countervailing measures, taking into account the needs of developing and least-developed countries. There is a need to make progress in the area of TRIPs and to take action against counterfeiting and piracy. The fulfilment of these goals strengthen the multilateral trade system. We emphasize the importance of environmental protection, call for WTO rule-making and goals to be coherent with the obligations undertaken under multilateral environmental agreements MEAs , and also call for regular information exchange between WTO and MEA secretariats. We recognize the importance of the ongoing negotiations on environmental goods and services. The environmental legislation of WTO members should not be seen as a non-tariff barrier to trade. As the number of natural disasters increases on a global scale, we call for WTO negotiations on permitted subsidies to focus on those that are harmful to the environment. Appropriate and effective technical assistance helps developing countries, especially the least developed countries, to meet their end of the bargain of mutual rights and obligations. Intensified and coordinated use of technologies, and know-how can do much to meet their capacity-building needs. At the same time, the commitments in the Doha Ministerial Declaration to provide technical assistance and capacity-building measures must be treated on equal footing with other commitments, and must play an important role in the negotiations. We note the renewed emphasis on the need for greater coherence in institutional arrangements and policies among international economic actors, especially between the WTO, the World Bank and the International Monetary Fund. In order to avoid further exacerbating the adjustment costs faced by many developing, especially the least developed countries, due attention must be paid to systemic and institutional shortcomings. We support greater participatory involvement in the coordination of

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international capital flows, trade and rule-making by a wider number of countries at varying levels of economic development, and integration into the world economy. We recognize various initiatives to provide additional financial support to developing countries, including through the establishment of a tax on airline tickets to finance a fund to combat pandemics. We underscore the importance of making the WTO a truly universal organization. We therefore express support to those countries that are now in the process of accession and call for a prompt conclusion of ongoing accession negotiations. We note the assessment made by certain WTO members of the impact of trade liberalization on their economies. We call upon the WTO to carry out such assessments on a regular basis as integral parts of trade policy reviews - especially with regard to the impact of differential and more favourable treatment - on the prospects for poverty eradication, employment, enjoyment of social rights and the protection of the environment in developing countries. Institutional strengthening of the WTO includes making it more open, transparent and accountable and ensuring the full involvement of all WTO members in the decision-making process. Contentious disputes about possible organizational changes must not distract attention from the underlying causes of the slow pace of multilateral negotiations and from the increased recourse to bilateral and regional trading arrangements which themselves should be consistent with the Doha Development Agenda. We call for improved information to be provided to the public about global trade, trade liberalization, the working of the WTO and the contribution of the Doha Development Agenda to the realization of the Millennium Development Goals. We advocate assigning trade issues to an existing committee or, when needed, establishing a special committee on the WTO in national parliaments, regional and global parliamentary organizations. These committees could monitor developments in multilateral trade, including capacity-building of parliaments and parliamentarians in multilateral trade, and offer parliamentary oversight. We reiterate our view that the days when trade policy was the exclusive domain of the executive branch are over. As parliamentarians, we are resolved to play a far greater role in overseeing WTO activities and promoting the fairness of the trade liberalization process. With this in mind, we call on governments participating in the sixth WTO Ministerial Conference to add the following paragraph to its outcome document:

### Chapter 8 : The WTO and Free Trade – Global Issues

*Representational fairness in GATT/WTO rule making: multinational enterprises and developing country interests in the TRIPS pharmaceutical-related provisions.*

### Chapter 9 : World Trade Organization - Wikipedia

*Mohamed Gad, author of Representational Fairness in Wto Rule Making: Negotiating, Implementing, on LibraryThing LibraryThing is a cataloging and social networking site for booklovers Home Groups Talk Zeitgeist.*